

REMARKS

Claims 8, 9, 16, 17, 44-50, and 52-54 are pending. Claims 8, 44, and 53-54 are canceled herein without prejudice. Claims 9, 16, 17, 45-48, and 50 are amended herein to change claim dependency recited therein. Accordingly, claims 9, 16, 17, 45-48, and 50, as amended, claim 49, and allowed claim 52 are under consideration.

Support for the amendments to the claims is found throughout the specification and in the original claims. Specifically, support for the amendments to claims 9, 16, 17, 45-48, and 50 to render them dependent from claim 52 can be found in claim 52 and passages previously indicated as supportive thereof. See the Response to the Office Action dated September 22, 2004, wherein support for previously presented claim 52 is described. Claim 47 is also amended to delete the phrase “preferably human mast cell tryptase” because this is essentially a duplication of the subject matter claimed in claim 9. Support for amendment to claim 47 is found throughout the specification, for example, in the Abstract, and at page 3, lines 22-27, wherein support for inhibiting mast cell tryptase in general is presented. No issue of new matter is introduced by these amendments.

Rejections under 35 USC § 112

Claims 8-9, 16-17, 45-50, and 53-54 stand rejected under 35 USC § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one of skill in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 8, 53, and 54 are canceled herein, thereby obviating any rejection of these claims. In view of the amendments to the claims, the rejection, as it applied to claims 9, 16-17, and 45-50, is respectfully traversed.

The Examiner acknowledges that the specification is enabling with respect to a protease inhibitor protein of SEQ ID NO: 2, derived from *R. appendiculatus* and an active fragment of the protein that inhibits tryptase with a K_i of less than 1×10^{-6} M. The Examiner maintains, however, that a “skilled artisan would not reasonably expect a polypeptide having anything less than 100% identity *over the full length of SEQ ID NO: 2* to share the same function as the polypeptide of SEQ ID NO: 2.” As previously indicated, Applicants respectfully disagree with the Examiner’s assertion in this regard and maintain that a skilled artisan would have every

expectation that introduction of conservative amino acid substitutions into SEQ ID NO: 2, for example, would not alter the functionality of SEQ ID NO: 2. In the interest of advancing the claims to allowance, however, Applicants have amended the claims to be directed to aspects of a protease inhibitor protein comprising SEQ ID NO: 2 or a protein fragment thereof that inhibits tryptase with a K_i of less than 1×10^{-6} M. In that claims 9, 16-17, and 45-50 have been amended directly or indirectly to depend from allowed claim 52, Applicants believe that these claims are presently in condition for allowance.

In view of the above, Applicants respectfully request that the rejection of claims 9, 16-17, and 45-50 be withdrawn.

Claim 44 has been rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Claim 44 is canceled herein, thereby obviating any rejection of this claim.

Fees

No additional fees are believed to be necessitated by this amendment. However, should this be an error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overpayment.

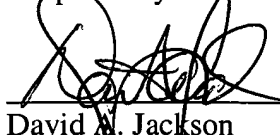
Conclusion

It is submitted, therefore, that the claims are in condition for allowance. No new matter has been introduced. Allowance of all claims at an early date is solicited. In the event that there are any questions concerning this amendment, or application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

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Enclosure: Notice of Appeal

Respectfully submitted,



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